



City of Ypsilanti
Planning & Development Department

February 13, 2006

MIC Limited
Modern Bookkeeping, Inc.
PO Box 408
Durand, MI 48429

RE: Proposed Renovation/Expansion of Déjà Vu, 31 N. Washington – City of Ypsilanti

To Whom it May Concern,

We have been contacted by Paul Bush of Asselin Associates Architects regarding a proposed expansion of Déjà Vu. We received existing and proposed floor plans on January 20, 2006 from Mr. Bush for the purpose of reviewing the proposed expansion. I have had the opportunity to review the floor plans and provide the following information.

The property is zoned B-3, Central Business District. The existing use of the premises would be defined as three different uses under Adult Regulated Uses of the City of Ypsilanti Zoning Ordinance, section 122-2:

- (1) Adult book or supply store means an establishment having 20 percent or more of its stock in trade or its sales devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age.
- (2) Adult mini-motion picture theater means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- (3) Cabaret means an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees or any other form of nude or partially nude service or entertainment.

The total existing floor area that these uses occupy is approximately 4,250 s.f. The B-3 Zoning District does not permit Adult Regulated Uses as either Permitted or with Special Use approval. Therefore, the current use is defined as a Non-Conforming Use of Buildings or Structures, pursuant to 122-205 of the Zoning Ordinance:

Sec. 122-205. Nonconforming uses of buildings or structures.

The nonconforming use of a building or structure, or structure and lot in combination, may be continued subject to the following provisions:

- (1) Change in use. *The nonconforming use of a building or structure may not be changed to a different use unless the new use is permitted in that same district. Any structure, or structure and lot in combination, in or on which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations of the district in which it is located and the nonconforming use may thereafter not be*

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EXHIBIT B

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- a. A building or structure used for residential purposes which is nonconforming due to the number of dwelling units contained therein may only be changed so that the number of dwelling units is decreased, or so that the use is brought into conformity with this chapter.*
- b. Notwithstanding the above, a nonconforming use a building or structure may be changed to another nonconforming use so that the degree of nonconformity is lessened when authorized by the planning commission after a public notice and hearing in accordance with section 122-164. In considering such authorization, the planning commission shall consider the following:*
- 1. Whether the proposed use is equally or more appropriate than the present nonconforming zoning district in which the building, structure or land is located. No change to a less appropriate use may be authorized by the planning commission.*
 - 2. Whether the proposed use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this chapter.*
 - 3. The effect of the proposed use on adjoining lands and the surrounding neighborhood.*
 - 4. In permitting such change, the planning commission may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.*
 - 5. Where a nonconforming use of a structure, or structure and land, is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.*
- (2) Expansion of nonconforming use.*
- a. The nonconforming use of any part of a building or structure shall not be expanded or extended into any other portion of such building or structure.*
 - b. No visible structural alteration shall be made to the building or structure devoted to a nonconforming use, except repairs and maintenance work which are required to keep such building in sound condition or as required by law.*
 - c. An existing structure containing a nonconforming use shall not be enlarged, constructed, reconstructed, moved or structurally altered or extended, unless the use is changed to a use which is permitted in the district in which the structure is located.*
- (3) Discontinuance. If a nonconforming use of a building or structure is discontinued for a period of 365 consecutive days or more, it shall not be renewed, and any subsequent use of the premises shall conform to the use regulations of the district in which the premises are located.*
- (4) Change in occupancy or ownership. A change of occupancy or ownership shall not constitute a discontinuance, or change in use.*
- (5) Removal or destruction. If a building or structure in which a nonconforming use is being conducted is removed, destroyed, or severely damaged to the extent that the cost of restoration of the structure exceeds 100 percent of the state equalized value (SEV) or 50 percent of a higher value established by the most recent appraisal of the structure exclusive of the foundation and land, the nonconforming use shall not be renewed, and any subsequent use of the premises shall conform to the use regulations of the district in which the premises are located. Single-family homes on individual lots that are considered a non-conforming use in the B-1 Zoning District shall be allowed to be rebuilt regardless of the amount of damage done to the structure.*

For the purpose of calculating a fair and equitable cost of restoration regulated by this section, the average of two bid estimates from licensed contractors shall be used. All work requiring permits under state and local regulations, and materials necessary to bring the structure up to current code shall be included. Clean up costs, demolition, furnishings, appliances, and site work, i.e. landscaping, fencing, paving, shall not be included. The actual repair and reconstruction may be done by the owner or

contractor of his or her choice.

- (6) *Abandonment. If the nonconforming use of land is abandoned for a period of 180 consecutive days, it shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.*

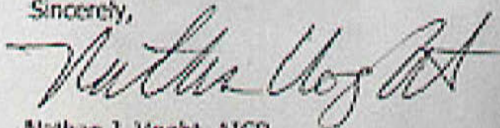
The proposed renovation and expansion, based on the proposed floor plans submitted, calls for an expansion of the floor areas that each of the existing Cabaret, Adult Book or Supply Store, and Adult Mini-Motion Picture Theater occupy. This type of change would be contrary to section 122-205 (2), above, and therefore, prohibited. Below is a summary of approximate existing and proposed floor areas for each of the uses:

Table 1
Summary of Approximate Existing and Proposed Floor Areas –
Adult Regulated Uses

USE	Existing Floor Area	Proposed Floor Area
Cabaret	2,700 s.f.	6,900 s.f.
Adult Book or Supply Store	1,200 s.f.	3,400 s.f.
Adult Mini-Motion Picture Theater	250 s.f.	1,000 s.f.
TOTAL	4,150 s.f.	11,300 s.f.

Please contact me with any questions.

Sincerely,



Nathan J. Voght, AICP
Planner II

CC: File
John Barr, City Attorney
Jon Ichessco, Fire Marshall
Charles Boulard, Building Official
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Paul Bush, Asselin Associates Architects, 4488 W. Bristol Road, Flint, MI 48507